

## **REMARKS**

By this Amendment, claims 7, 34, 41, 45, 48, 54, 56, and 58 are canceled, claims 1, 8, 11, 12, 15, 29, 30, 39, 43, 47, 49, 50, 55, 57, 65-67, 69, 72-74, 81, and 92 are amended, and claims 111 and 112 are added. Consequently, claims 1-6, 8-33, 35-40, 42-44, 46, 47, 49-53, 55, 57, and 59-112 are pending in this application.

As an initial matter, Applicants wish to express sincere appreciation to Examiner Kasztejna and Examiner Flanagan for the courtesy extended to Applicants' representative during the personal interview held on July 27, 2005. At the interview, the 35 U.S.C. § 103(a) rejection based on Turturro et al. (U.S. Patent No. 5,967,997) and Donadio, III et al. (U.S. Patent No. 5,741,429) was discussed. In addition, various references cited in the Information Disclosure Statement filed on April 14, 2005 were discussed. The following remarks reflect subject matter discussed during the interview.

In the Office Action, claims 1-110 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Turturro et al. in view of Donadio, III et al. For the following reasons, Applicants respectfully request reconsideration and withdrawal of this rejection.

### **Independent Claims 1, 15, 43, 57, 74, and 92**

During the interview, Applicants' representative discussed with the Examiners proposed amendments to claims 1, 15, 43, 57, 74, and 92 that are substantially identical to the foregoing amendments, upon which an agreement was made that the proposed claim amendments would render those claims patentably distinguishable from Turturro et al. and Donadio, III et al. For at least this reason, Applicants respectfully request reconsideration and withdrawal of this rejection applied to independent claims 1, 15, 43, 57, 74, and 92 and their respective dependent claims.

**Independent Claims 29, 49, and 66**

Although Applicants do not necessarily agree with the rejection of independent claims 29, 49, or 66, Applicants amended each of these independent claims to further distinguish from the cited references. For example, independent claim 29 recites a medical device for use with an endoscope. The medical device comprises, among other things, a proximal handle, an elongated member having a distal portion and a proximal portion, and a deflection control member passing through the elongated member and having a proximal end connected to the proximal handle and a distal end connected to the distal portion of the elongated member, wherein moving the deflection control member proximally relative to the elongated member causes the distal portion to deflect relative to the proximal portion.

Similarly, claim 49 recites an elongated control shaft comprising an elongated member having a proximal portion and a distal portion, and a deflection control member passing through the elongated member and having a proximal end for connecting to the proximal handle and a distal end connected to the distal portion of the elongated member, wherein the elongated member and the deflection control member are configured such that moving the deflection control member proximally relative to the elongated member causes the distal portion to deflect relative to the proximal portion.

Claim 66 recites a method of making a medical device comprising, among other things, providing an elongated member having a distal portion and a proximal portion, attaching a proximal handle to the proximal portion, extending a deflection control member through the elongated member, connecting a proximal end of the deflection control member to the proximal handle, and connecting a distal end of the deflection control member to the distal portion of the elongated member, wherein the elongated

member and the deflection control member are configured such that moving the deflection control member proximally relative to the elongated member causes the distal portion to deflect relative to the proximal portion.

As will be explained below, neither Turturro et al. nor Donadio, III et al., either taken alone or in combination, teaches or suggests, among other things, a deflection control member connected between a proximal handle and the distal portion of the elongated member, where the elongated member and the deflection control member are configured such that moving the deflection control member proximally causes the distal portion to deflect relative to the proximal portion.

Turturro et al. discloses an endoscopic surgical instrument 10 with a deflectable and rotatable distal end. The instrument includes an end effector 14 at its distal end, a long tube-like section 13 that connects a handle 12 to the end effector 14. The section 13 includes a flexible hollow coil 16 and a control wire 18 extending therethrough. The coil 16 has a first axial portion 58 covered by a sleeve 15 and a second axial portion 60 extending from the distal end of the sleeve 15 to the end effector 14. See Fig. 3. The instrument also includes a deflecting wire 17 that has a prebend angle with a spring-like force to return to the prebend shape. When the deflecting wire 17 is in the first axial portion 58, the distal end of the instrument forms a straight portion due to a sufficient stiffness of the sleeve 15. To deflect and/or rotate the distal end of the instrument 10, the deflecting wire 17 is advanced distally out of the first axial portion 58 and into the second axial portion 60, as shown in Fig. 6. Because the second axial portion 60 is more flexible than the first axial portion 58, the deflecting wire 17 begins to assume its

prebend angle, which causes the deflection of the distal portion relative to the proximal portion.

As is apparent, however, the deflecting wire 17 of Turturro et al. for controlling the deflection of the distal portion of the coil 16 is not connected to any portion of the distal portion of the coil 12. Moreover, to deflect the distal portion of the coil 16, the deflecting wire 17 of Turturro et al. is moved distally, rather than proximally.

Donadio, III et al. does not disclose any deflecting mechanism and, therefore, does not supply the deficiency of Turturro et al.

For at least these reasons, at least independent claims 29, 49, and 66 patentably distinguish from Turturro et al. and Donadio, III et al. Thus, Applicants respectfully request reconsideration and withdrawal of this rejection applied to independent claims 29, 49, and 66 and their respective dependent claims.

Applicants respectfully request the reconsideration of this application, the withdrawal of all the outstanding objections and rejections, and the allowance of all pending claims.

The Office Action contains a number of statements and characterizations regarding the claims and the related art. Applicants decline to necessarily subscribe to any statement or characterization in the Office Action, regardless of whether it is addressed above.

Please grant any extensions of time required to enter this response and charge  
any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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